



The 8th Annual HRLA Judicial Review Competition

Virtual advocacy on the human rights implications of virtual hearings

The annual HRLA Judicial Review Competition is open to law students throughout the United Kingdom. The application process involves teams of two submitting paper applications for permission to apply for judicial review. The highest-scoring eight teams are then selected to make an oral application for permission before a panel of human rights practitioners. Usually, this happens at a London Chambers; this year, it happened online. Two teams are then chosen to compete in the final, which involves the substantive judicial review.

Rosa Thomas and James Lamming, Counsel for the Claimant, were the worthy winners of the 8th Annual HRLA Judicial Review Competition, the final of which took place on Wednesday 2 December 2020. Miranda Zeffman and Samuel Moss, for the Defendant, came in at a very close second, with Lord Justice Singh, one of the three judges, describing it as a 'photo finish'. His Lordship – who can usually be found presiding over the Court of Appeal – was joined on the bench by Mr Justice Knowles, of the High Court, and Miss Allison Munroe QC, of Garden Court Chambers. Unlike in competitions past, this year's final was fought in a virtual courtroom, with bedrooms and webcams substituting for the Royal Courts of Justice when it became clear that lockdown rules would not permit an in-person hearing.



And what a pertinent turn of events, because virtual hearings and their limitations formed the topic of the moot problem, which was expertly written by Philip Rule. The judicial review claim challenged the convening of the parole hearing of the Claimant, Mr Ali Hussain, by video link rather than in person, on the grounds that it was (1) unfair as a matter of common law and/or a breach of the Defendant's

own applicable policy, and (2) a violation of Article 6 of the European Convention on Human Rights, as given effect in domestic law. Mr Hussain's application for judicial review was opposed by the Parole Board.

Mr Hussain was a Syrian refugee with PTSD, moderate depression, and suspected learning difficulties, raising concerns about his ability to participate effectively in a video link hearing. On the other hand, Covid-19 guidance issued by the Parole Board made provision for hearings to take place over video link and highlighted the need for members to act more flexibly in light of the pandemic.

Counsel for the Claimant advanced arguments on the basis of procedural unfairness, submitting that the Parole Board could not fairly determine the Claimant's credibility through a virtual assessment. Whilst they conceded that Article 6 was not engaged, they argued that its protections are mirrored by the common law. Counsel for the Defendant maintained that in these circumstances, the interests of fairness would be better served by promptly holding a video link hearing than delaying the hearing to when it could happen in person.

The delivery of all the finalists was assured and made all the more impressive by the fact that they were all GDL students who had only recently begun their legal studies. Lord Justice Singh stressed that both teams had already learnt the core tenets of good advocacy, including the importance of signposting. His Lordship also offered valuable advice on brevity and on presenting bundles with key passages highlighted.

The Judicial Review Competition remains an annual highlight for the HRLA's Young Lawyers Committee, offering dedicated, enthusiastic students a chance to shine and deploy sophisticated legal argument on topical matters. This year's 95 entries are a heartening reminder that there are many committed future advocates who are ready to confront important human rights issues with passion and verve.

We are very grateful to everyone who has supported the 2020 Competition. In particular, we thank the esteemed judges, barristers, and solicitors who acted as our competition judges, not least Tayab Ali, Tessa Gregory, Ciar McAndrew, and Philip Rule, who judged the semi-final. We are also indebted to everyone who participated in the double-marking of the written submissions, and to Liberty, JUSTICE, and Church Court Chambers, who generously provided this year's prizes. We also express our utmost thanks to UCL Laws, who kindly hosted the virtual semi-final, and Mr Justice Knowles, who kindly hosted the virtual final on Zoom.

Lauren Chaplin and Marianne Schönle

HRLA

February 2021